

Dirk O. Julander, Bar No. 132313
doj@jbblaw.com
Catherine A. Close, Bar No. 198549
cac@jbblaw.com
JULANDER, BROWN & BOLLARD
9110 Irvine Center Drive
Irvine, California 92618
Telephone: (949) 477-2100
Facsimile: (949) 477-6355

*Attorneys for Plaintiff ATLANTIC-
PACIFIC PROCESSING SYSTEMS, INC.*

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

ATLANTIC-PACIFIC PROCESSING
SYSTEMS, INC., a Nevada
corporation,

Plaintiff,

vs.

RISING SUN USA INC. a.k.a. HOTEL
QUICKLY INC., a Delaware
corporation; DOUG E. MERRYMAN,
an individual; and JÉRÔME CLÉ, an
individual,

Defendants.

Case No.

COMPLAINT FOR:

1. Breach of Contract Against Hotel Quickly;
2. Breach of Guaranty Against Merryman;
3. Fraud Against Merryman;
4. Violation of 18 U.S.C. § 1962(c) Against All Defendants;
5. Contractual Indemnification Against Merryman and HQ Inc.; and
6. Equitable Indemnification Against all Defendants

(DEMAND FOR JURY TRIAL)

Plaintiff, ATLANTIC-PACIFIC PROCESSING SYSTEMS, INC., a Nevada Corporation (hereinafter “Plaintiff” or “APPS”) hereby alleges for its Complaint against Defendants RISING SUN USA INC. a.k.a. HOTEL QUICKLY INC., DOUG E. MERRYMAN, and JÉRÔME CLÉ as follows:

PARTIES

1. Plaintiff is, and at all relevant times was, a corporation duly organized and existing under and by virtue of the laws of the State of Nevada with its registered office in Clark County, Nevada.

2. Plaintiff is informed and believes and, based thereon, alleges that Defendant RISING SUN USA INC. a.k.a. HOTEL QUICKLY INC. (“HQ Inc.”) is, and at all relevant times was, a corporation duly organized and existing under and by virtue of the laws of the State of Delaware, with a registered office in Wilmington, Delaware and its principal place of business in Pleasanton, California. HQ Inc. owns and operates a hotel booking website, taking online hotel reservations from customers in this district and throughout the United States.

3. Plaintiff is informed and believes, and based thereon, alleges that Defendant DOUG E. MERRYMAN (“Merryman”) is an individual residing in Pleasanton, California. Merryman is listed as the sole owner, officer and director of HQ Inc., though the company was controlled by Defendant JÉRÔME CLÉ.

4. Plaintiff is informed and believes, and based thereon, alleges that Defendant JÉRÔME CLÉ (“Clé”) is an individual residing in Pleasanton, California. Clé is the sole director and CEO of HotelQuickly Ltd., a private business entity organized in Asia, and is a *defacto* owner/officer of HQ Inc.

5. Hereafter, Merryman and Clé will sometimes be referred to collectively as the “Individual Defendants.” All Defendants will also sometimes be collectively referred to as the “Defendants.”

6. Plaintiff is informed and believes, and based thereon alleges, that there exists, and at all relevant times there existed, a unity of interest and ownership between and among the Individual Defendants and HQ Inc. such that any individuality and separateness between and among the Individual Defendants, on the one hand, and HQ Inc., on the other hand, have ceased and HQ Inc. is the alter ego of the Individual Defendants:



1 a. At all relevant times, Merryman and Clé owned and controlled
2 HQ Inc.'s business and accounts, despite ostensibly placing ownership of HQ
3 Inc. in Merryman's name alone.

4 b. Notwithstanding the façade of placing ownership of HQ Inc. in
5 Merryman's sole name, Clé regularly communicated with APPS on behalf of
6 HQ Inc., negotiated on behalf of HQ Inc., and demanded payments on behalf
7 of HQ Inc. APPS is informed and believes that HQ Inc. was formed with
8 money from Clé and that he controlled the company and received money
9 from HQ Inc.'s accounts.

10 c. At all relevant times, HQ Inc. was used by the Individual
11 Defendants as a device to operate the credit card processing scheme described
12 below and avoid individual liability.

13 d. APPS is informed and believes and, based thereon, alleges that:
14 the Individual Defendants have completely controlled, dominated, managed,
15 and operated HQ Inc. for their own benefit and gain; the Individual
16 Defendants took substantial monies from the accounts of HQ Inc., essentially
17 treating HQ Inc.'s accounts as their own, and siphoning the money out of the
18 company rendering the company unable to fulfill its obligations to its
19 customers.

20 e. The Individual Defendants have intermingled HQ Inc.'s assets
21 with their individual assets to suit their own convenience.

22 f. HQ Inc. was inadequately capitalized and, as detailed below,
23 operated akin to a pyramid scheme.

24 g. The Individual Defendants used HQ Inc. as a sham to defraud the
25 consumers, credit card processors, acquirers such as APPS, banks and the
26 regulatory authorities. As such, injustice would result if the fiction of
27 separateness is maintained.
28

COMMON ENTERPRISE

7. In doing the acts alleged herein, Defendants engaged in a sophisticated conspiracy to defraud consumers, credit card processors, acquirers and banks as detailed in paragraphs 75 through 85 herein below.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter under 28 U.S.C. Section 1332(a)(1) on the basis of diversity of citizenship, because the amount in controversy exceeds \$75,000.00, the parties are citizens of different states, and there is an actual controversy between the parties.

9. This Court also has federal question jurisdiction over this matter under 28 U.S.C.A. § 1331 because the Complaint states a cause of action for violation of the Racketeer Influenced and Corrupt Organizations Act under 18 U.S.C. § 1962(c) and the ends of justice require that the case against all Defendants be tried in this forum.

a. The Defendants have minimum contacts with the United States;

b. This Court has personal jurisdiction over Merryman and Clé as residents of Pleasanton, California; and

c. No single district would be able to exercise personal jurisdiction over both HQ Inc. (a Delaware corporation) and the remaining Defendants who are all California residents.

10. Venue in the Northern District of California is proper under 28 U.S.C. §1391(b)(2) because a substantial part of the events or omissions giving rise to the claim occurred in the District, the claims alleged arise out of Defendants' contacts with this district, and hundreds of California residents were victimized by Defendants' conduct as alleged herein.

///

///

FACTUAL BACKGROUND

APPS Business:

11. For over a decade, APPS has provided credit card processing services to merchants who desire to accept credit card payments. APPS is a respected industry leader providing payment processing for commercial merchants and governmental entities throughout the United States. APPS's customers include county and city governments, as well as nationwide merchants in the transportation, lodging, retail, healthcare and numerous other industries.

12. APPS, along with its depositing bank, is known in the payment card industry as an "acquirer." As an acquirer, APPS acts as an intermediary between merchants who desire to accept credit card payments and the banks that issue credit cards to consumers, such as Visa and MasterCard.

13. APPS essentially "settles" the money flowing between the various parties to a typical credit card transaction. As an acquirer, APPS typically enters into an agreement with a merchant to provide the merchant with, in essence, a line of credit. Under the agreement with the merchant, APPS exchanges funds with the credit card issuing banks on behalf of the merchant, and then pays the merchant for its daily payment-card activity minus any reversals, interchange fees, and acquirer fees. Thus, acquirers such as APPS are basically guarantors of the merchant's credit card transactions, taking on the risk of any chargebacks and related fees that may be assessed by the issuing banks for the merchants' customers should they dispute the charges or demand refunds. Notably, chargebacks can be assessed more than 12 months after the transaction takes place depending on the reason for the dispute.

14. Acquirers manage these risks by requiring that a portion of the processing funds due to the merchants be deposited into a reserve account for a period of time before releasing the funds to the merchants. The calculation of the reserve amount and length of the reserve hold is determined by the nature of the merchant's business; whether they are "low risk" or "high risk" merchants.

1 15. The credit card brands as a whole classify merchants as “low risk”
2 where at least 70% of the card transactions come from consumers that appear in
3 person at the merchant’s business with their card in hand, such as brick and mortar
4 stores and restaurants. The credit card brands generally classify all other merchants
5 as “high risk” merchants. This especially includes merchants who sell their
6 products and services online because the merchant’s inability to inspect the physical
7 credit cards and the nature of the business (taking payment for future
8 deliveries/services) substantially increases the risk of fraudulent transactions.

9 ***HotelQuickly’s Business:***

10 16. Founded in 2012, HotelQuickly is an Asian-based hotel booking
11 website with accompanying mobile app for Android and iOS. It claimed to offer
12 access to almost half a million hotels and offer services in 17 languages.

13 17. HotelQuickly’s customers paid HotelQuickly for their reservations at
14 the time the reservation was made, often for hotel stays that would not happen for
15 several months in the future.

16 18. In August 2017, Rising Sun Merchant Services Pte Ltd, a Singapore
17 registered company (“Rising Sun Ltd.”), purchased HotelQuickly. Clé was the sole
18 company director of Rising Sun Ltd. After it purchased HotelQuickly, Clé also
19 became the sole company director of HotelQuickly.

20 19. Shortly after the purchase, HotelQuickly expanded into the US market
21 under the business entity HQ Inc. Although Merryman was listed on the corporate
22 documents as the sole owner of HQ Inc., Clé was intimately involved in the
23 operations and finances of the US version of the company, often communicating
24 with APPS as the owner.

25 20. Merryman was, and is, business partners with Clé in a private
26 investment firm known as Rising Sun Ventures, LLC. Clé is the Chairman and
27 Merryman is the Vice-Chairman of Rising Sun Ventures, LLC.

28 ///

HQ Inc. Contracts with APPS for Domestic Credit Card Processing:

21. In November 2017, Merryman contacted APPS with a referral to HQ Inc. Because HQ Inc. provided its services online and received its customers' credit card information through its website (also known as an eCommerce business), and based on its business model of accepting payment for future services, it was a paradigm "high risk" merchant.

22. On November 14, 2017, HQ Inc. and APPS entered into a written Merchant Application and Agreement (the "Agreement"). As part of the Agreement, APPS would provide credit card processing services for HQ Inc. for a term of three years. In exchange APPS would receive specified fees for its services, residuals and ancillary fees.

23. HQ Inc. and Merryman both executed the Agreement. By signing the Agreement, HQ Inc. and Merryman certified that they reviewed and agreed to be bound by all of its terms and conditions, including the guarantee.

24. The terms and conditions of the Agreement expressly limited the "chargebacks" HQ Inc. could incur. A chargeback is a credit card transaction that is disputed by the cardholder, typically because the merchant failed to perform the service or deliver the goods as promised. APPS had discretion to terminate the Agreement if: "At any time during the term of this Agreement, Merchant has had a monthly ratio of Chargebacks to Charges exceeding one percent (1%), or Chargebacks are in excess of three percent (3%) of any monthly dollar amount of Charges." APPS was also free to terminate the Agreement if HQ Inc. failed to comply with the guidelines established by the Card Brands (such as Visa and MasterCard) or if the Card Brands notified APPS of suspicious transactions.

25. Under the Agreement, each chargeback to HQ Inc. is immediately due and payable. In addition, in the event of an early termination of the Agreement, the parties agreed that APPS could charge an early termination fee ("ETF"). The ETF is calculated as the number of months remaining on the Agreement multiplied by the

1 average monthly processing fees over the most recent six (6) months and adding
2 costs and attorneys' fees.

3 26. Merryman executed the Agreement with knowledge of the foregoing
4 provisions and with an understanding as an industry veteran of the consequences of
5 the foregoing provisions.

6 27. Merryman also personally guaranteed HQ Inc.'s performance of all
7 terms and conditions of the Agreement, including the payment of the ETF.

8 28. After it executed the Agreement, HQ Inc. began processing credit card
9 transactions with APPS on December 26, 2017.

10 ***HQ Inc.'s Early Termination of the Agreement:***

11 29. After processing with APPS for only a week, HQ Inc.'s account was
12 "flagged" by APPS's Risk Department due to an excessive number of instances
13 where cardholders declined the charges. The following month, in February 2018,
14 APPS began receiving notifications from Visa that HQ Inc.'s chargeback-to-sale
15 ratios exceeded the Card Brands' thresholds.

16 30. APPS warned HQ Inc. several times that its chargeback ratios were
17 excessive and that HQ Inc. had entered Visa's chargeback monitoring program.
18 Over the next several months, APPS offered several options to HQ Inc. to assist in
19 controlling the excessive chargeback issues and lowering its chargeback ratios.

20 31. On at least six occasions between February and July 2018, Merryman
21 repeatedly represented to APPS that HQ Inc. was implementing remedial measures
22 – including adding fraud prevention software and hiring additional staff – designed
23 to reduce HQ Inc.'s chargebacks and assist with identifying fraudulent activity.
24 Specific representations included the following:

25 a. On or about April 20, 2018, Defendants expressly represented to
26 APPS and Visa that "HotelQuickly has hired additional 20 customer support
27 agents."
28

1 b. On or about June 20, 2018, Defendants expressly represented to
2 APPS and Visa that they implemented a fraud management system.

3 c. On or about June 20, 2018, Defendants expressly represented to
4 APPS and Visa that they were implementing a chargeback reduction program
5 known as 3DS to reduce chargebacks.

6 32. Contrary to Defendants' promises, none of the chargeback reduction
7 methods were ever implemented by HQ Inc. and APPS's suggestions were ignored.

8 33. In July and August 2018, HQ Inc.'s chargeback ratios hit and later
9 exceeded 2.40% and the company was in its 6th month on Visa's chargeback
10 monitoring program. As a result, on August 30, 2018, APPS was forced to
11 terminate the Agreement, effective immediately.

12 34. In response, Clé instructed Merryman to block all debits from APPS so
13 that APPS could no longer satisfy chargebacks from HQ Inc.'s bank account.
14 Merryman did as instructed.

15 35. By the time HQ Inc. was terminated in August 2018, it had processed
16 approximately 85,400 transactions, issued approximately \$3,900,000 in refunds, and
17 had more than \$500,000 in cardholder disputes outstanding. Because HQ Inc. failed
18 to immediately pay the chargebacks from its checking account as was required
19 under the Agreement, and because APPS was no longer authorized to debit HQ
20 Inc.'s bank account, APPS was forced to use money from HQ Inc.'s reserve account
21 to reimburse the disgruntled consumers and pay the related fees associated with the
22 chargebacks.

23 36. As set forth above, the reserve account was in place to compensate
24 APPS for monies it was required to expend and to collect the ETF, not to pay
25 chargebacks that should have been debited from HQ Inc.'s bank account.

26 37. To date, APPS has paid more than \$200,000 in refunds and \$400,000 in
27 chargebacks out of HQ Inc.'s reserve account and the chargebacks continue to come
28 in. Given HQ Inc.'s overall processing volume of more than \$24,316,000, APPS

1 expects the chargebacks to continue. Due to the significant volume of chargebacks
 2 that have and continue to come in, HQ Inc.'s reserve account is now depleted of
 3 funds, yet APPS remains responsible for reimbursing the defrauded consumers and
 4 paying the associated fees imposed by the banks and Card Brands, and APPS has no
 5 available funds left in the reserve account to satisfy the ETF.

6 38. Notably, despite Merryman being listed as the sole owner and officer of
 7 HQ Inc., Clé regularly communicated with APPS regarding HQ Inc.'s processing
 8 and chargebacks and the amounts in the reserve and merchant accounts, including
 9 making demands for the release of processing funds. Clé also controlled the access
 10 to HQ Inc.'s bank account as referenced above.

11 ***HotelQuickly and HQ Inc. Scam to Defraud Consumers:***

12 39. APPS is informed and believes and on that basis alleges that HQ Inc.'s
 13 excessive chargebacks arose because HotelQuickly and HQ Inc.'s business turned
 14 out to be a scam set up to defraud consumers, credit card processors, acquirers such
 15 as APPS, banks and the regulatory authorities.

16 40. In December 2018 – at the height of the holiday travel season –
 17 thousands of HotelQuickly and HQ Inc. customers were advised that their hotel
 18 bookings had been cancelled:



22

23

24

25

26

27

28

259. Re: HotelQuickly

Dec 8, 2018, 7:04 AM

Save

HOTELS QUICKLY IS A COMPLETE SCAM. We leave on our trip tomorrow. Just got a email saying that our hotel has been cancelled. We rang the hotel directly they had never received any booking from Hotels quickly. We booked almost 2 months ago. Try ringing there 24hr support line.... nothing doesn't work. Complete scam i intend on exposing these people until i get a full refund.




263. Re: HotelQuickly

Dec 8, 2018, 11:03 AM

Save

Total scam! They took my money, sent me a confirmation, and I show up at my hotel and they ask me "did you cancel your booking?". Of course not! Then they tell me it was cancelled by the company that booked it (and I didn't receive any kind of notification). I email HotelQuickly, and 4 hours later get notification that my booking was cancelled, and that they can't issue refunds so I have a voucher on their app. They even had the nerve to file the case as "closed" and that I was "satisfied"! I have a report in to my cc company, and luckily the hotel I had reserved with had a room, and in fact, they honoured the price (I still had to pay them directly) AND gave me a beautiful upgraded room for my inconvenience. They also informed me that this had happened to a guest that tried to check in last week.

Save yourself the headaches and NEVER EVER use HotelQuickly



278. Re: HotelQuickly
Dec 9, 2018, 8:10 AM

Apparently I have been ripped by HQ

Apparently I have been ripped off as well.

HotelQuickly took my money, then cancelled my reservation 4 days before I was to arrive at my hotel on December 6 2018. They did not notify me. They did respond to my email complaint a day later saying that the hotel had not told them they were overbooked. The hotel disputed that and gave me a room. HotelQuickly only offered a voucher for a future stay. They said a glitch in their system would not allow them to issue a refund. I have filed a dispute with my CitiBank credit card company.

Rodeo, California...


Level 6 Contributor

8 posts

102 reviews

97 helpful votes

Save



269 Re: HotelQuickly
Dec 8, 2018, 7:04 PM

We booked in November to stay in January 2019 at the Sudima Hotel Christchurch Airport through HotelQuickly. This morning, we get an email from HotelQuickly's no reply address stating our reservation has been cancelled, no explanation other than "problem with their provider" and no refund! Maybe a voucher to use sometime will be forthcoming in the non-specific future! They took our money in November, AU\$220! We sent an email to HotelQuickly at support@hotelquickly.com and info@hotelquickly.com demanding our money back. Let's see if they respond. In the meantime, be warned - don't book through HotelQuickly.com unless you want the same thing to happen to you

Brisbane, Australia


3 posts

2 reviews

1 helpful vote

Save

Report inappropriate content



270 Re: HotelQuickly
Dec 8, 2018, 8:17 PM

Hotel Quickly has just cancelled my reservation and offered me a credit note as compensation.

Obviously a scam. Should be avoided

Adelaide, Australia


Level 3 Contributor

16 posts

8 reviews

Save

Report inappropriate content



261. Re: HotelQuickly
Dec 8, 2018, 8:23 AM

Like many other, we woke up this morning to an email from HotelQuickly saying that "due to unforeseen circumstances" our hotel had to cancel our reservation and we were offered a voucher for the website. We just called the hotel to see if they ever had a reservation for us, and they said that HotelQuickly had canceled our reservation 4 days ago. We're going to try our best to get our money back. This sucks.

1 post

1 review

Save

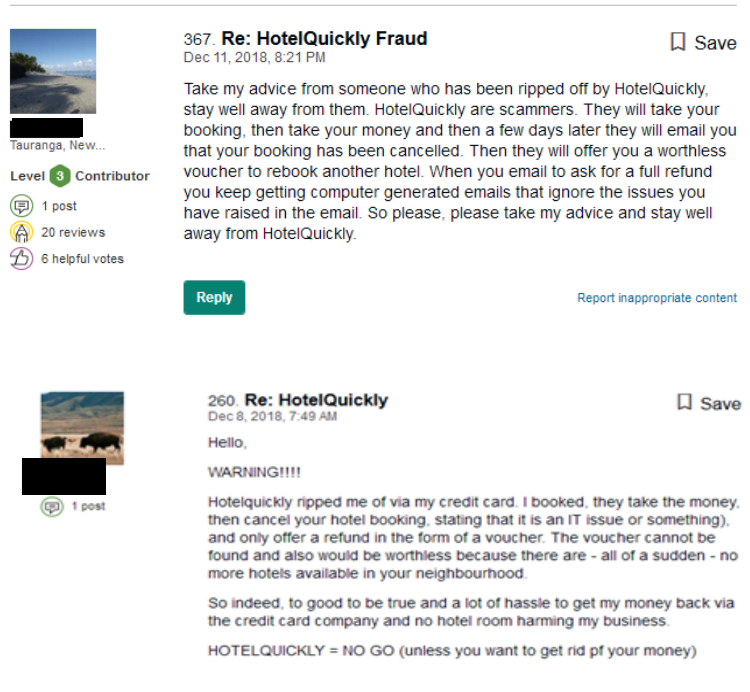
41. In response to the customers' demands for a refund, HotelQuickly and HQ Inc. responded:

"In reference to your refund request, unfortunately, at this time and due to an issue with our system, we are unable to process the refund directly to your card.

"However, we have successfully processed a full refund in the form of a voucher for later use. The refund voucher will be available for you to use any new booking and the voucher can be extended at any time.

"This is the only refund method we have available at the moment."


42. The vouchers later proved to be worthless. When customers attempted to use the vouchers, they were advised either that there were no available hotels or that the voucher had already been used. Some customers clicked on the link to access the vouchers to find that the link was disabled.



43. But not all customers had the benefit of advance notice of the cancellation/lack of reservation. Many customers actually arrived at their hotels to discover that there were no reservations made for them, that the hotel had never heard of HotelQuickly or HQ Inc., and that, if the hotel did happen to have a vacancy (which was often not the case), the customer would be required to pay for a room again – at a much higher rate.



155. **Re: HotelQuickly**
 Apr 14, 2018, 11:51 AM Save


 Pittsburgh...


Level 2 Contributor

1 post
 6 reviews
 6 helpful votes

I wouldn't use hotel quickly

We booked a hotel in Miami with hotel quickly and paid in advance. When we arrived the hotel did not have our booking. The hotel and is both emailed multiple times to clear up the issue and it's been 48 hours and no reply. Hotel is currently holding \$900 on our credit card in case hotel quickly doesn't pay, so essentially we would have to pay twice. Their email support @hotelquickly.com was also bouncing back. Looks like a scam from where we sit so we recommend no one use it. Kayak should also consider removing this travel company from their search engine as this is how we found them.

231. **Re: HotelQuickly**
 Nov 15, 2018, 11:04 PM Save


 [Redacted]

1 post

Just been informed by my hotel (where I arrived today) that a booking made and paid for in July to Hotel Quickly has not been paid to hotel. Consequently I had to pay a further amount of some 500 dollars to book my room. Hotel Quickly did not respond to a multitude of calls by hotel reception. DO NOT BOOK via this site

236. **Re: HotelQuickly**
 Nov 18, 2018, 9:14 PM Save


 [Redacted]


1 post

Never Never Never use Hotel Quickly - we booked our accommodation through them only to find that when we arrived our reservation had been cancelled by hotel quickly without our knowledge (as well as another forty other customers on the same day) We have not received any contact as to why it was cancelled even though we paid in full one month earlier nor have we been able to get in contact with hotel quickly - had to pay for the accommodation again at the motel on the day lucky for us it was only two nights other people had to pay for a week again over \$1,000.00 - was told not very likely that we would get a refund and more than likely Hotel Quickly is in financial trouble.

Would NOT recommend HOTEL QUICKLY under any circumstances - might be cheap online but the reality is it will probably cost you more in the long run.

Biggest Scam Ever

287. **Re: HotelQuickly**
 Dec 10, 2018, 5:11 AM Save


 [Redacted]

1 post

Just been scammed by Hotel quickly. Booked 4 nights in Prague, confirmed and paid. When we arrived the hotel told us that the agent had cancelled our booking. No reply for 24 hours, only to be told they would provide a credit note! As if we would travel anywhere else on the back of a booking with these crooks!

44. Many customers who sought recourse from HotelQuickly or HQ Inc. learned that HotelQuickly's travel confirmation email was fake and often included a phony phone number to contact them directly and a phony phone number to contact the hotel:

///

///



Level 1 Contributor

120. **Re: HotelQuickly**
Feb 24, 2018, 10:27 AM

Save

They take your money and give you a booking confirmation for you only to find out that you actually don't have a booking. run, run very fast, away from them!!!!!!!!!!!!!!!!!!!!



7 posts
2 reviews
25 helpful votes

78. **Re: HotelQuickly**
Oct 6, 2017, 11:21 PM

Save

I, too, have made the mistake of assuming that because TripAdvisor had them listed at a price much lower than the others, that they are a good site to book through. I will find out soon. I booked a room yesterday at a hotel for \$100 less than all of the other TA quotes. The first strike was that they only gave me a booking ID after pre-paying-not an actual confirmation number to use at check-in, nor even what type of room was booked. Second strike-I called the hotel the next evening after booking and not only do they have no record of my reservation, but they have no knowledge of HotelQuickly nor is it listed as one of their third-party bookers. I contacted HQ via chat immediately after hearing this from the hotel, and the agent stated that there must be a mistake that will be updated. The agent assured me that this would be taken care of before the deadline to cancel the room. They've got one more strike with me before I report the charge as fraudulent to my credit card company. To be safe, I'd recommend following up with the hotel after using HQ to make sure that they actually have a room reserved in your name, and if not, go ahead and reserve one that you can cancel while waiting for HQ.



Level 2 Contributor

4 posts
4 reviews
1 helpful vote

HotelQuickly Fraud
Jan 10, 2018, 12:12 AM

Save

I just wanted to share my horrible experience with HotelQuickly which was an agency TripAdvisor sponsored as showing a room available. I booked my room through TripAdvisor, which then redirected to me to HotelQuickly to book. I booked my room on Sunday, January 7th. I was skeptical as I tried to book directly with the hotel and they said they were full. I continued to follow up on Monday, and they advised it takes 24 hours. I called hotel again and they confirmed that HotelQuickly reached out to them attempting to book a room, however they were full as I already knew and rejected their request. Totally unacceptable as this wasted days and ended up costing me more money to find a new hotel room. I am traveling with a 3 year old and 5 year old and it would have been terrible to find out we did not have a room. I only discovered this based on my continued follow up with the hotel directly. HotelQuickly's travel confirmation email has a FAKE phone number to contact them direct and a FAKE phone number to contact the hotel even! It's very concerning that TripAdvisor would allow a company such as HotelQuickly to falsely advertise rooms available on their website. This has certainly diminished my trust in booking rooms through TripAdvisor. I now have to deal with disputing the charge with my credit card company along with HotelQuickly. Both of which is additional wasted time AND having to find a hotel room during high season in my destination town.

45. APPS later learned that HotelQuickly and HQ Inc. was operated similar to a pyramid scheme, with the companies taking money from new bookings to pay for the older bookings, until the entire house of cards collapsed in December 2018 when they could not afford to pay for the many holiday bookings they took (and were already paid for by customers) many months prior. Consistent with this structure, Defendants: took bookings from customers for future hotel room stays; accepted payments at the time the bookings were made; either failed to make the reservation at all or, alternatively, cancelled the reservation shortly prior to the customer's arrival date; refused to issue a refund to the aggrieved customer; failed to

1 respond to customer complaints or delayed the customers with false promises of
 2 credits for future bookings; and later forced, even encouraged, customers to dispute
 3 their credit card charges, resulting in the acquirers – such as APPS and its successor
 4 acquirers – bearing the ultimate financial loss on the transactions:



110. **Re: HotelQuickly**

Jan 28, 2018, 12:18 PM

[Save](#)

This is NOT A REPUTABLE WEBSITE. IT IS A SCAM.

I am currently disputing unauthorized charges to my credit card.

1 post
1 review

[Report inappropriate content](#)



182. **Re: HotelQuickly**

May 22, 2018, 7:14 PM

[Save](#)

HotelQuickly is a scam. I booked a hotel through TripAdvisor and TripAdvisor sent me to www.HotelQuickly.com. I figured it was a reputable website given that TripAdvisor was using it. I was wrong!

I reserved a hotel room for 2 nights stay. I did not receive an email confirmation for the reservation but the \$350 was charged to my credit card to "Hotel Quickly". I called Hotel Quickly and they said they had no reservation from me on their end. They advised me to call my credit card company to get a refund through them. I sent Hotel Quickly screen shots to show that my credit card had a credit to them. They said this was strange and they had no records under my name.

When I called MasterCard to dispute the charge, the customer service person said that she had received the same exact complaint from a few other people today with the same merchant.

Level 3 Contributor
2 posts
10 reviews
2 helpful votes



237. **Re: HotelQuickly**

Nov 19, 2018, 1:46 AM

[Save](#)

I called the hotel to confirm my reservation made through HotelQuickly a month before my trip, but when I arrived today, the hotel told me that HotelQuickly had canceled my reservation 48 hours before I arrived. I had to buy a room again (for a higher price) and dispute the HotelQuickly charge with my credit card company. The hotel said they had to send the money back to HotelQuickly, even though I didn't ask them to cancel. So far, the bank is trying to get my refund back but the charge is still on my account.

Level 3 Contributor
1 post
23 reviews
17 helpful votes



251. **Re: HotelQuickly**

Nov 30, 2018, 1:14 PM

[Save](#)

Yes run to your bank to make a dispute back, my bad experience with Hotelquickly is the same too, booked n a email confirmation said it's confirmed, got to my hotel the reception couldn't find me in their system, then he check again n found out it said I "cancel" the next day 12am midnight, I'm so pissed never again, try to contact them was sooo hard n received fake email back!!

2 posts



285. **Re: HotelQuickly**

Dec 10, 2018, 4:10 AM

[Save](#)

We are the latest to fall victim to these total scammers. \$2.5k down the drain as we plan to spend a great Xmas & New Year in Thailand. Hotelquickly are completely fraudulent, taking our cash 3 months ago and then cancelling our booking (confirmed by the hotel) before advising us that there was an issue at the hotel. Voucher? The hotel has confirmed they will still retake our booking if HQ confirm it - good luck there.

They do not answer their 1800 number nor return emails.

So much for a merry Xmas.

Level 2 Contributor
2 posts
5 reviews
6 helpful votes



(HotelQuickly Ltd.)

Dec 28, 04:21 +07

Dear [REDACTED]

If you don't want to accept a refund in the form of a voucher, you may be able to apply for a charge back with your credit card issuer to get your funds back.

We are very sorry for the inconvenience caused.

Yours sincerely,

Customer Success Team

Email: support@hotelquickly.com

Get instant help by visiting our Frequently Asked Questions here > FAQ <https://support.hotelquickly.com/hc/en-us>

Discover best promotion with us at <https://direct.hotelquickly.com/>

Inside deal with best promotion : <https://app.hotelquickly.com/get-app>

46. The foregoing illegal activity was in violation of the Agreement, constituted fraud and deceit, and violated numerous statutory prohibitions. This illegal activity damaged APPS to the extent it was, and continues to be, required to pay out significant sums of money to satisfy the defrauded customers who paid for bookings between December 26, 2017 and August 30, 2018 and later charged back their transactions.

47. After HQ Inc.'s reserve funds were depleted, APPS was left with no recourse for the chargebacks that continued to flow in and was forced to reimburse consumers from its own funds. As of the date of this Complaint, chargebacks continue to accrue and HQ Inc.'s reserve account is depleted.

48. Moreover, because APPS remains liable directly to the consumer for all discrepancies on the credit card transactions it has processed between December 26, 2017 and August 30, 2018, APPS now seeks a judgment ordering the Defendants to indemnify APPS from any and all future claims from consumers and regulatory agencies arising out of the more than \$24,316,000 in processed transactions.

///

///

FIRST CAUSE OF ACTION

(Breach of Contract against All Defendants)

49. Plaintiff refers and incorporates by reference the allegations of paragraph 1 through 48 as though set forth fully herein.

50. On or about November 14, 2017, HQ Inc. and APPS entered into the Agreement. As part of the Agreement, APPS was to provide credit card processing services for HQ Inc. for an agreed-upon term of 3 years.

51. Under the Agreement, HQ Inc. expressly agreed (among other things):

a. To conduct its business in an appropriate manner by following the Card Brand's operating rules and all laws pertaining to the credit card processing industry;

b. To perform all of its obligations to the cardholders in connection with the transaction;

c. To submit only valid charges to APPS, and only after performing all of its services; and

d. To immediately credit consumers or reimburse APPS for each chargeback.

52. HQ Inc. also expressly agreed to pay the ETF if the Agreement was terminated "for cause" prior to the expiration of the 3 year term.

53. HQ Inc. agreed that the Agreement could be terminated "for cause" if: "Merchant has violated any provision of this Agreement ...; At any time during the term of this Agreement, Merchant has had a monthly ratio of Chargebacks to total transactions exceeding Card Association requirements or 1%, or Chargebacks exceed 3% of any monthly dollar amount of total transactions; ... [and] Merchant or any of Merchant's principals, owners, officers, directors, agents, or employees has been involved in processing transactions arising from fraudulent, dishonest or otherwise unauthorized transactions ..."

///

54. HQ Inc. violated and breached the terms of the Agreement in each of the following respects:

- a. By allowing HQ Inc.'s chargebacks to substantially exceed those allowed under the Card Association requirements and the Agreement;
- b. By fraudulently charging consumer credit cards for bookings that they did not ever make with the hotels;
- c. By fraudulently charging consumer credit cards for bookings that they initially made with the hotels but later cancelled prior to the customer's arrival date;
- d. By refusing to refund their customers and instead issuing worthless credit vouchers;
- e. By disabling APPS's access to HQ Inc.'s bank account to reimburse disgruntled consumers;
- f. By encouraging disgruntled customers to charge back the transaction with their credit card issuing banks, ultimately forcing APPS to bear the losses on the transactions; and
- g. By failing and refusing to immediately reimburse APPS for all chargebacks and associated fees.

55. As a result of the unacceptably high rate of chargebacks, APPS terminated the Agreement effective August 30, 2018. The remaining breaches described above were only discovered after the termination of the Agreement as the chargebacks began to flow in from consumers at an alarming rate, particularly during and after the 2018 holiday season. In December 2018 alone, HQ Inc. had approximately \$130,000 in chargebacks and more than \$34,000 in credits were issued.

56. APPS performed all of its obligations required under the Agreement, except those obligations that were excused by HQ Inc.'s breach of the Agreement.

///

1 57. Pursuant to the terms of the Agreement, APPS was entitled to charge
2 HQ Inc. an ETF in the amount of \$953,361.18 for its violations and early
3 termination of the Agreement. To date HQ Inc. has failed and refused to pay the
4 ETF and there are insufficient funds in the reserve account to satisfy the ETF.

5 58. APPS exhausted the funds in HQ Inc.'s reserve account and
6 chargebacks continue to occur. As additional chargebacks are processed beyond the
7 funds in the reserve account, APPS is responsible to reimburse those consumers out
8 of its own funds. Because many customers have not yet attempted to redeem the
9 worthless vouchers issued, it is difficult to predict the amount of future chargebacks
10 and related fees that APPS will be responsible for.

11 59. Thus, as a direct and proximate result of HQ Inc.'s breach of the
12 Agreement, APPS has suffered damages of \$953,361.18 in addition to any
13 continuing damages arising from unreimbursed chargebacks. Moreover, as the alter
14 egos of HQ Inc., Merryman and Clé are responsible for these damages.

15 60. The Agreement expressly provides for the recovery of attorneys' fees
16 and costs in any action brought to recover money from Defendants for their failure
17 to pay money due. It has been necessary for APPS to retain legal counsel to
18 prosecute this action. Pursuant to the Agreement, APPS is entitled to recover its
19 attorney's fees and costs reasonably incurred in prosecuting this action.

20 **SECOND CAUSE OF ACTION**

21 **(Breach of Guaranty against Merryman)**

22 61. Plaintiff refers and incorporates by reference the allegations of
23 paragraph 1 through 60 as though set forth fully herein.

24 62. On or about April 9, 2014, Merryman personally guaranteed the
25 obligations of HQ Inc. under the Agreement, including payment of the ETF.

26 63. Merryman breached his guaranty by failing to pay the ETF and
27 immediately reimburse HQ Inc.'s customers for chargebacks and pay the banks and
28 Card Brands the associated fees.

64. As a direct and proximate result of Merryman's breach of the Agreement, APPS has suffered damages of \$953,361.18 in addition to any continuing damages arising from unreimbursed chargebacks.

65. The Agreement expressly provides for the recovery of attorneys' fees and costs in any action arising out of Merryman's guaranty. It has been necessary for APPS to retain legal counsel to prosecute this action. Pursuant to the Agreement, APPS is entitled to recover its attorney's fees and costs reasonably incurred in prosecuting this action.

THIRD CAUSE OF ACTION

(Fraud in the Inducement as against Merryman)

66. Plaintiff refers and incorporates by reference the allegations of paragraph 1 through 65 as though set forth fully herein.

67. On November 14, 2017, Merryman expressly represented to APPS in the Agreement that HQ Inc. did not charge its customers prior to the customers' receipt of the services provided.

68. On November 14, 2017, Merryman expressly represented to APPS in the Agreement that HQ Inc. provided a "30 day refund policy" for its customers.

69. In reliance on the foregoing representations, APPS agreed to enter into the Agreement and process credit card transactions for HQ Inc. The foregoing representations were critical to APPS's decision to process transactions for HQ Inc. because if HQ Inc. actually charged its customers at the time the service was provided and honored refunds for its dissatisfied customers as represented, HQ Inc. could not have used funds from later bookings to finance the earlier bookings and run the company like a pyramid scheme.

70. The foregoing representations were false and known by Merryman to be false at the time they were made. In reality, HQ Inc. charged its customers immediately for services to be provided in the future and failed to honor refund

///

1 requests, instead issuing worthless vouchers. APPS would have never processed
2 transactions for HQ Inc. had it known its true business model.

3 71. As a direct and proximate result of Merryman's false representations,
4 APPS was damaged in an amount to be determined at the time of trial, but not less
5 than \$500,000.

6 72. In engaging in the acts alleged herein above, Merryman acted with
7 oppression, fraud and/or malice, express or implied, and with the specific intent to
8 injure APPS, justifying an award of exemplary and punitive damages.

9 **FOURTH CAUSE OF ACTION**

10 **(Violation of 18 U.S.C. § 1962(c) [Racketeer Influenced and Corrupt** 11 **Organizations Act] against all Defendants)**

12 73. Plaintiff refers and incorporates by reference the allegations of
13 paragraph 1 through 72 as though set forth fully herein.

14 74. The Racketeer Influenced and Corrupt Organizations Act in 18 U.S.C.
15 § 1962(c) ("RICO") makes it unlawful for "any person employed by or associated
16 with any enterprise engaged in, or the activities of which affect, interstate or foreign
17 commerce, to conduct or participate, directly or indirectly, in the conduct of such
18 enterprise's affairs through a pattern of racketeering activity" APPS is informed
19 and believes and on that basis alleges that Defendants violated the RICO statute in
20 the following respects:

21 ***The Scheme to Defraud Consumers:***

22 75. From at least November 2017 through the present, Defendants engaged
23 in a pattern of racketeering activity by committing unfair or deceptive acts toward
24 consumers in violation of 18 U.S.C. § 1029, 18 U.S.C. § 1343 and 18 U.S.C. § 1344
25 as well as the laws of the State of California, including Business and Professions
26 Code, Sections 17200, among other statutes and regulations, by: deceptively luring
27 consumers into making hotel reservations through their website; accepting credit
28 card payments for the reservations; either not booking the hotels or cancelling the

bookings prior to the customer's arrival; failing and refusing to refund the customers; issuing worthless vouchers to the customers for future bookings; and failing to pay the chargebacks and related fees assessed when the customers disputed the charges with their credit card issuers.

76. In doing so, Defendants received for themselves more than \$20,000,000 in fraudulent gains through the credit cards processed APPS between December 2017 and August 2018 alone, and continuing thereafter through other credit card processors.

Use of Interstate Wire Transmissions to Facilitate the Scheme:

77. In engaging in foregoing scheme, Defendants used the predicate act of wire fraud, unlawful under 18 U.S.C. § 1343, in at least the following respects:

a. In furtherance of the fraudulent scheme, Defendants used false and misleading advertisements on their websites to advertise their fraudulent hotel booking services;

b. In furtherance of the scheme, Defendants used emails and the internet to disseminate fraudulent booking confirmations to consumers;

c. In furtherance of the scheme, Defendants used emails to fraudulently induce APPS and HQ Inc.'s other credit card processors to process HQ Inc.'s fraudulent credit card transactions;

d. In furtherance of the scheme, Defendants used emails to defraud consumers who complained about the cancelled and non-existent bookings by promising vouchers which were worthless or which HQ Inc. failed to deliver.

78. In undertaking these predicate acts of wire fraud, Defendants defrauded consumers, credit card processors and acquirers (including APPS), banks and the Card Brands.

Defendants' Respective Roles in the Scheme:

79. **HQ Inc.:** HQ Inc. is the processing "merchant." As detailed above, it: falsely advertised its services; lured unsuspecting consumers into providing their

1 credit card information and personally identifying information with the promise of
2 discounted hotel bookings; provided “confirmations” to consumers containing false
3 information regarding the booking and hotel contact information; after receiving the
4 consumer payments, either failed to make the promised bookings or made the
5 bookings and cancelled them prior to the customer’s check-in date; refused to refund
6 the aggrieved customers’ money; issued fraudulent, invalid credit vouchers to
7 complaining customers; and encouraged customers to initiate chargebacks with their
8 issuing banks so that APPS and subsequent acquirers would be forced to reimburse
9 the customers.

10 80. **Merryman:** Merryman is listed in HQ Inc.’s organizational
11 documents as its sole owner and officer. Merryman deceived APPS and other
12 acquirers to provide processing services for HQ Inc. as set forth above. Merryman
13 signed all documents on HQ Inc.’s behalf, including the Agreement and associated
14 Guarantee. APPS is informed and believes that, in reality, HQ Inc. was owned and
15 controlled by Merryman along with his business partner Clé, the owner and sole
16 company director of HotelQuickly (the Asian version of the company). Merryman
17 participated in the operation and management of HQ Inc. and directed the affairs of
18 the company. APPS is informed and believes that Merryman and the other
19 companies he controls received substantial funds from HQ Inc.’s fraudulent
20 processing.

21 81. **Clé:** Clé is the owner and sole company director of HotelQuickly. He
22 also co-owns of Rising Sun Ventures with Merryman. APPS is informed and
23 believes and, based thereon, alleges that Clé financed HQ Inc. and, along with
24 Merryman, controlled the company. Clé participated in the operation and
25 management of HQ Inc. and directed the affairs of the company. Clé regularly
26 communicated with APPS relating to HQ Inc.’s credit card processing services and
27 accounts, negotiating fees and demanding the return of funds on behalf of HQ Inc.

28 ///

1 APPS is informed and believes that Clé and the other companies he controls
2 received substantial funds from HQ Inc.'s fraudulent processing.

3 ***Allegations Common to All Defendants:***

4 82. Through their conduct, Defendants formed an enterprise associated for
5 a common purpose of engaging in the specific course of conduct to mislead
6 consumers and to obtain and process fraudulent credit card transactions for the
7 express purpose of receiving money from such unlawful credit card transactions
8 without actually providing the promised goods and services. Defendants engaged in
9 this particular fraudulent course of conduct and worked together to achieve their
10 goal of receiving money from the unwary consumers through the fraudulent credit
11 card transactions. APPS is informed and believes, and on that basis alleges, that
12 each of the Individual Defendants participated in the operation or management of
13 the enterprise and that each Defendant had some part in directing the affairs of the
14 enterprise. Defendants participated in the scheme with the specific intent to defraud
15 consumers, credit card processors and acquirers such as APPS, banks and the Card
16 Brands.

17 83. This pattern of racketeering activity engaged in by Defendants
18 transcended their credit card processing with APPS. APPS is informed and believes
19 and, based thereon, alleges that Defendants engaged in these same predicate acts
20 with other credit card processors, acquirers and banks, both before and after their
21 relationship with APPS. APPS is informed and believes, and based thereon alleges,
22 that Defendants are currently engaging in the same scheme through two new
23 business enterprises, eOasia and Travelbook. Accordingly, Defendants' activities
24 amount to or pose a threat of continued criminal activity extending indefinitely into
25 the future.

26 84. As a direct and proximate result of Defendants' violations of RICO,
27 APPS was injured when it was forced to pay out more than \$500,000 in chargebacks
28 ///

1 to compensate defrauded consumers. And the chargebacks from HQ Inc.'s
2 processing through APPS continue to flow in.

3 85. Pursuant to 18 U.S.C. § 1964(c) APPS seeks an award of damages
4 against the Defendants, for threefold the damages it has sustained in the sum of at
5 least \$1,500,000 in addition to its costs of suit, including reasonable attorneys' fees.

6 **FIFTH CAUSE OF ACTION**

7 **(Contractual Indemnification against Merryman and HQ Inc.)**

8 86. Plaintiff refers and incorporates by reference the allegations of
9 paragraph 1 through 85 as though set forth fully herein.

10 87. The Agreement provides, in relevant part:

11 Merchant agrees to indemnify [APPS], including their
12 officers, directors, employees, and agents against and to
13 hold them harmless from any and all claims and demands
14 of any party arising from or based upon any act or
15 omission of Merchant, Merchant's employees, Merchant's
16 designated representatives or agents, or Merchant's
Merchant Servicers in connection with or arising out of
this Agreement, the duties to be performed by Merchant
pursuant to this Agreement, any Charges which Merchant
submits to [APPS], or Merchant's violation of the
Operating Rules or any applicable law.

17 88. As alleged above, APPS has been damaged by Defendants' actions and
18 omissions which, to date, have resulted monies expended by APPS in satisfaction of
19 the claims of HQ Inc.'s customers and additional fees, fines and penalties assessed
20 by the Card Brands.

21 89. APPS has previously demanded, and by this action expressly demands,
22 that Defendants defend and indemnify APPS from and against such claims and
23 losses, as to which APPS denies any liability. Because Defendants have failed and
24 refused to defend and indemnify APPS from and against such claims and alleged
25 losses, Defendants have breached their obligations under the Agreement.

26 90. APPS performed all of its obligations required under the Agreement,
27 except those obligations that were excused by law or Defendants' breach.

28 ///

91. As a direct and proximate result of Defendants' breach of the Agreement, APPS has been damaged and will hereafter suffer damages for which Defendants are responsible. Defendants are further liable, obligated and required to defend, indemnify and hold APPS harmless as and against any and all amounts that APPS, as the acquirer, may in the future be required to pay by way of costs, claims, judgment or compromise together with any and all attorneys' fees and costs incurred in addressing or defending against the claims of HQ Inc.'s customers, the Card Brands and regulatory agencies.

92. The Agreement expressly provides for the recovery of attorneys' fees and costs in any action arising out of HQ Inc.'s processing under the Agreement. It has been necessary for APPS to retain legal counsel to prosecute this action. Pursuant to the Agreement, APPS is entitled to recover its attorney's fees and costs reasonably incurred herein.

SIXTH CAUSE OF ACTION

(Equitable Indemnification against all Defendants)

93. Plaintiff refers and incorporates by reference the allegations of paragraph 1 through 92 as though set forth fully herein.

94. APPS is informed and believes that if damages and injuries were sustained as the result of Defendants' actions in defrauding consumers by: charging consumer credit cards for bookings that they did not make with the hotels; fraudulently charging consumer credit cards for bookings that they actually made with the hotels, but later cancelled prior to the customers' arrival dates; refusing to refund the customers for the non-existent and cancelled bookings and instead issuing worthless credit vouchers, which damages and injuries APPS denies were attributable to it, such damages and injuries were actively, primarily and directly caused and proximately contributed to at least in part by the conduct, actions, inaction, omissions, and other wrongdoings of the Defendants, and each of them.

///

95. The Defendants, and each of them, owed a duty of care to APPS to ensure that its credit card processing: was lawful; was not injurious to cardholders, the banks and the Card Brands; was in compliance with HQ Inc.'s obligations under the Agreement; and was in compliance with the laws of the United States, including 18 U.S.C. § 1029, 18 U.S.C. § 1343 and 18 U.S.C. § 1344 as well as the laws of the State of California, including Business and Professions Code, Sections 17200.

96. The Defendants, and each of them, breached duties owing directly or indirectly to APPS; and any liability for such damages or injuries arise, if at all, not as the result of any conduct, actions, inaction, omissions, or wrongdoing on APPS's part but only by reason of the wrongdoing of the Defendants, and each of them.

97. By virtue of such conduct, actions, inaction, omissions, or other wrongdoing of Defendants, and their breaches of duties owing directly or indirectly to APPS committed thereby, Defendants are liable, obligated and required to the extent of their respective liability as determined by the trier of fact, to defend, indemnify and hold APPS harmless as and against any and all amounts that APPS, as the acquirer, may in the future be required to pay by way of costs, claims, judgment or compromise together with any and all attorneys' fees and costs incurred in addressing or defending against the claims of HQ Inc.'s customers. APPS is thus entitled to equitable indemnification by all of the Defendants.

PRAYER FOR RELIEF

WHEREFORE, APPS prays for judgment on its Complaint as follows:

1. For general damages of \$953,361.18 in addition to any continuing damages arising from unreimbursed chargebacks;

2. For an award pursuant to 18 U.S.C. § 1964(c) against HQ Inc., Merryman and Clé for their violation of the RICO statute of threefold the damages APPS has sustained in the sum of at least \$1,500,000 in addition to cost of suit, including reasonable attorneys' fees.

///

3. For a determination that Defendants are liable, obligated and required to the extent of their respective liability as determined by the trier of fact, to defend, indemnify and hold APPS harmless as and against any and all amounts that APPS, as the acquirer, has paid or may in the future be required to pay by way of costs, claims, judgment or compromise together with any and all attorneys' fees and costs incurred in addressing or defending against the claims of HQ Inc.'s customers and regulatory agencies.

4. For an award of exemplary and punitive damages against HQ Inc. and Merryman in an amount to be determined at trial.

5. For reasonable attorneys' fees and costs of suit incurred herein;

6. For pre-judgment and post-judgment interest on the amount recovered at the highest legal rate from the earliest legal date; and

7. For such other and further relief as the Court may deem just and proper.

DATED this 18th day of April, 2019

JULANDER, BROWN & BOLLARD

By /s/ Dirk O. Julander

DIRK O. JULANDER
9110 Irvine Center Drive
Irvine, California 92618
Tel. (949) 477-2100

*Attorneys for Plaintiff, Atlantic-Pacific
Processing Systems, Inc.*